

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LANCE EALY,

Petitioner, : Case No. 3:15-cv-308

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

SHERIFF ROBERT JONES, et al.,

Respondents.

REPORT AND RECOMMENDATIONS

This habeas corpus case is before the Court for initial review upon filing. The Magistrate Judge notes that the Petition (ECF No. 1) has been filed by “Minister” Larry Ealy who signs the papers as “POA” for Lance Ealy. Larry Ealy is well-known to this Court in many capacities, including as the father of Lance Ealy. Lance Ealy is the Defendant in *United States v. Ealy*, Case No. 3:13-cr-175, a case presently pending before The Honorable Michael R. Barrett of this Court.

Larry Ealy presents no proof that his son has granted him a power of attorney. Under Ohio law, a power of attorney must be a “writing or other record.” Ohio Revised Code §§ 1337.22(G), 1337.25. More importantly, even if a written power of attorney existed from Lance Ealy to Larry Ealy, it would not be effective to authorize Larry Ealy to file legal proceedings on behalf of his son. A valid power of attorney makes the person named therein an “attorney-in-fact.” That denomination shows the distinction of such a person from an attorney-at-law. Only

persons admitted to practice before this Court as attorneys-at-law are authorized to file proceedings on behalf of others. Larry Ealy is not admitted to practice law before this Court.

As Larry Ealy has been previously advised in trying to file habeas papers as an attorney-in-fact for Lance Ealy in Georgia, acting as if one had authority to perform legal services when one does not is an act in contempt of court. Rather than recommend a contempt sanction against Larry Ealy, however, the Magistrate Judge recommends the Petition herein be STRICKEN. The docket in Case No. 3:13-cr-175 shows Lance Ealy is capable of filing papers in court *in propria persona*.

September 4, 2015.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).

